

111TH CONGRESS
1ST SESSION

H. R. 688

To amend title XXI of the Social Security Act to reauthorize the State Children’s Health Insurance Program through fiscal year 2013, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 2009

Ms. GRANGER introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend title XXI of the Social Security Act to reauthorize the State Children’s Health Insurance Program through fiscal year 2013, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Kids First Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Reauthorization through fiscal year 2013.

Sec. 3. Allotments for the 50 States and the District of Columbia based on expenditures and numbers of low-income children.

- Sec. 4. Limitations on matching rates for populations other than low-income children or pregnant women covered through a section 1115 waiver.
- Sec. 5. Prohibition on new section 1115 waivers for coverage of adults other than pregnant women.
- Sec. 6. Standardization of determination of family income for targeted low-income children under title XXI and optional targeted low-income children under title XIX.
- Sec. 7. Grants for outreach and enrollment.
- Sec. 8. Improved State option for offering premium assistance for coverage of children through private plans under SCHIP and Medicaid.
- Sec. 9. Treatment of unborn children.
- Sec. 10. 50 percent matching rate for all Medicaid administrative costs.
- Sec. 11. Reduction in payments for Medicaid administrative costs to prevent duplication of such payments under TANF.
- Sec. 12. Elimination of waiver of certain Medicaid provider tax provisions.
- Sec. 13. Elimination of special payments for certain public hospitals.
- Sec. 14. Effective date; coordination of funding for fiscal year 2009.

1 SEC. 2. REAUTHORIZATION THROUGH FISCAL YEAR 2013.

2 (a) INCREASE IN NATIONAL ALLOTMENT.—Section
 3 2104 of the Social Security Act (42 U.S.C. 1397dd(a))
 4 is amended—

5 (1) in subsection (a)—

6 (A) by striking “and” at the end of para-
 7 graph (10);

8 (B) in paragraph (11)—

9 (i) by striking “each of fiscal years
 10 2008 and 2009” and inserting “fiscal year
 11 2008”; and

12 (ii) by striking the period at the end
 13 and inserting a semicolon; and

14 (C) by adding at the end the following new
 15 paragraphs:

16 “(12) for fiscal year 2009, \$7,780,000,000;

17 “(13) for fiscal year 2010, \$8,044,000,000;

1 “(14) for fiscal year 2011, \$8,568,000,000;
 2 “(15) for fiscal year 2012, \$9,032,000,000; and
 3 “(16) for fiscal year 2013, \$9,505,000,000.”;

4 and

5 (2) in subsection (c)(4)(B), by striking “2009”
 6 and inserting “2008, \$62,000,000 for fiscal year
 7 2009, \$64,000,000 for fiscal year 2010,
 8 \$68,000,000 for fiscal year 2011, \$72,000,000 for
 9 fiscal year 2012, and \$75,000,000 for fiscal year
 10 2013”.

11 (b) REPEAL OF LIMITATION ON AVAILABILITY OF
 12 FUNDING FOR FISCAL YEARS 2008 AND 2009.—Section
 13 201 of the Medicare, Medicaid, and SCHIP Extension Act
 14 of 2007 (Public Law 110–173) is amended—

15 (1) in subsection (a), by striking paragraph (2)
 16 and redesignating paragraphs (3) and (4), as para-
 17 graphs (2) and (3) respectively; and

18 (2) in subsection (b), by striking paragraph (2).

19 **SEC. 3. ALLOTMENTS FOR THE 50 STATES AND THE DIS-**
 20 **TRICT OF COLUMBIA BASED ON EXPENDI-**
 21 **TURES AND NUMBERS OF LOW-INCOME CHIL-**
 22 **DREN.**

23 (a) IN GENERAL.—Section 2104 of the Social Secu-
 24 rity Act (42 U.S.C. 1397dd) is amended by adding at the
 25 end the following new subsection:

1 “(m) DETERMINATION OF ALLOTMENTS FOR THE 50
2 STATES AND THE DISTRICT OF COLUMBIA FOR FISCAL
3 YEARS 2009 THROUGH 2013.—

4 “(1) IN GENERAL.—Notwithstanding the pre-
5 ceding provisions of this subsection and subject to
6 paragraph (3), the Secretary shall allot to each sub-
7 section (b) State for each of fiscal years 2009
8 through 2013, the amount determined for the fiscal
9 year that is equal to the product of—

10 “(A) the amount available for allotment
11 under subsection (a) for the fiscal year, reduced
12 by the amount of allotments made under sub-
13 section (c) (determined without regard to para-
14 graph (4) thereof) for the fiscal year; and

15 “(B) the sum of the State allotment fac-
16 tors determined under paragraph (2) with re-
17 spect to the State and weighted in accordance
18 with subparagraph (B) of that paragraph for
19 the fiscal year.

20 “(2) STATE ALLOTMENT FACTORS.—

21 “(A) IN GENERAL.—For purposes of para-
22 graph (1)(B), the State allotment factors are
23 the following:

24 “(i) The ratio of the projected expend-
25 itures for targeted low-income children

1 under the State child health plan and preg-
2 nant women under a waiver of such plan
3 for the fiscal year to the sum of such pro-
4 jected expenditures for all States for the
5 fiscal year, multiplied by the applicable
6 percentage weight assigned under subpara-
7 graph (B).

8 “(ii) The ratio of the number of low-
9 income children who have not attained age
10 19 with no health insurance coverage in
11 the State, as determined by the Secretary
12 on the basis of the arithmetic average of
13 the number of such children for the 3 most
14 recent Annual Social and Economic Sup-
15 plements to the Current Population Survey
16 of the Bureau of the Census available be-
17 fore the beginning of the calendar year be-
18 fore such fiscal year begins, to the sum of
19 the number of such children determined
20 for all States for such fiscal year, multi-
21 plied by the applicable percentage weight
22 assigned under subparagraph (B).

23 “(iii) The ratio of the projected ex-
24 penditures for targeted low-income children
25 under the State child health plan and preg-

1 nant women under a waiver of such plan
2 for the preceding fiscal year to the sum of
3 such projected expenditures for all States
4 for such preceding fiscal year, multiplied
5 by the applicable percentage weight as-
6 signed under subparagraph (B).

7 “(iv) The ratio of the actual expendi-
8 tures for targeted low-income children
9 under the State child health plan and preg-
10 nant women under a waiver of such plan
11 for the second preceding fiscal year to the
12 sum of such actual expenditures for all
13 States for such second preceding fiscal
14 year, multiplied by the applicable percent-
15 age weight assigned under subparagraph
16 (B).

17 “(B) ASSIGNMENT OF WEIGHTS.—For
18 each of fiscal years 2009 through 2013, the fol-
19 lowing percentage weights shall be applied to
20 the ratios determined under subparagraph (A)
21 for each such fiscal year:

22 “(i) 40 percent for the ratio deter-
23 mined under subparagraph (A)(i).

24 “(ii) 5 percent for the ratio deter-
25 mined under subparagraph (A)(ii).

1 “(iii) 50 percent for the ratio deter-
2 mined under subparagraph (A)(iii).

3 “(iv) 5 percent for the ratio deter-
4 mined under subparagraph (A)(iv).

5 “(C) DETERMINATION OF PROJECTED AND
6 ACTUAL EXPENDITURES.—For purposes of sub-
7 paragraph (A):

8 “(i) PROJECTED EXPENDITURES.—
9 The projected expenditures described in
10 clauses (i) and (iii) of such subparagraph
11 with respect to a fiscal year shall be deter-
12 mined on the basis of amounts reported by
13 States to the Secretary on the May 15th
14 submission of Form CMS–37 and Form
15 CMS–21B submitted not later than June
16 30th of the fiscal year preceding such year.

17 “(ii) ACTUAL EXPENDITURES.—The
18 actual expenditures described in clause (iv)
19 of such subparagraph with respect to a
20 second preceding fiscal year shall be deter-
21 mined on the basis of amounts reported by
22 States to the Secretary on Form CMS–64
23 and Form CMS–21 submitted not later
24 than November 30 of the preceding fiscal
25 year.”.

1 (b) 2-YEAR AVAILABILITY OF ALLOTMENTS; EX-
2 PENDITURES COUNTED AGAINST OLDEST ALLOT-
3 MENTS.—Section 2104(e) of the Social Security Act (42
4 U.S.C. 1397dd(e)) is amended to read as follows:

5 “(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

6 “(1) IN GENERAL.—Except as provided in the
7 succeeding paragraphs of this subsection, amounts
8 allotted to a State pursuant to this section—

9 “(A) for each of fiscal years 1998 through
10 2008, shall remain available for expenditure by
11 the State through the end of the second suc-
12 ceeding fiscal year; and

13 “(B) for each of fiscal years 2009 through
14 2013, shall remain available for expenditure by
15 the State only through the end of the fiscal
16 year succeeding the fiscal year for which such
17 amounts are allotted.

18 “(2) ELIMINATION OF REDISTRIBUTION OF AL-
19 LOTMENTS NOT EXPENDED WITHIN 3 YEARS.—Not-
20 withstanding subsection (f), amounts allotted to a
21 State under this section for fiscal years beginning
22 with fiscal year 2009 that remain unexpended as of
23 the end of the fiscal year succeeding the fiscal year
24 for which the amounts are allotted shall not be re-
25 distributed to other States and shall revert to the

1 Treasury on October 1 of the third succeeding fiscal
2 year.

3 “(3) RULE FOR COUNTING EXPENDITURES
4 AGAINST FISCAL YEAR ALLOTMENTS.—Expenditures
5 under the State child health plan made on or after
6 April 1, 2009, shall be counted against allotments
7 for the earliest fiscal year for which funds are avail-
8 able for expenditure under this subsection.”.

9 (c) CONFORMING AMENDMENTS.—

10 (1) Section 2104(b)(1) of the Social Security
11 Act (42 U.S.C. 1397dd(b)(1)) is amended by strik-
12 ing “subsection (d)” and inserting “the succeeding
13 subsections of this section”.

14 (2) Section 2104(f) of such Act (42 U.S.C.
15 1397dd(f)) is amended by striking “The” and in-
16 serting “Subject to subsection (e)(2), the”.

17 **SEC. 4. LIMITATIONS ON MATCHING RATES FOR POPU-**
18 **LATIONS OTHER THAN LOW-INCOME CHIL-**
19 **DREN OR PREGNANT WOMEN COVERED**
20 **THROUGH A SECTION 1115 WAIVER.**

21 (a) LIMITATION ON PAYMENTS.—Section 2105(c) of
22 the Social Security Act (42 U.S.C. 1397ee(c)) is amended
23 by adding at the end the following new paragraph:

24 “(8) LIMITATIONS ON MATCHING RATE FOR
25 POPULATIONS OTHER THAN TARGETED LOW-INCOME

1 CHILDREN OR PREGNANT WOMEN COVERED
2 THROUGH A SECTION 1115 WAIVER.—For child
3 health assistance or health benefits coverage fur-
4 nished in any fiscal year beginning with fiscal year
5 2010:

6 “(A) FMAP APPLIED TO PAYMENTS FOR
7 COVERAGE OF CHILDREN OR PREGNANT WOMEN
8 COVERED THROUGH A SECTION 1115 WAIVER
9 ENROLLED IN THE STATE CHILD HEALTH PLAN
10 ON THE DATE OF ENACTMENT OF THE KIDS
11 FIRST ACT AND WHOSE GROSS FAMILY INCOME
12 IS DETERMINED TO EXCEED THE INCOME ELI-
13 GIBILITY LEVEL SPECIFIED FOR A TARGETED
14 LOW-INCOME CHILD.—Notwithstanding sub-
15 sections (b)(1)(B) and (d) of section 2110, in
16 the case of any individual described in sub-
17 section (c) of section 105 of the Kids First Act
18 who the State elects to continue to provide child
19 health assistance for under the State child
20 health plan in accordance with the requirements
21 of such subsection, the Federal medical assist-
22 ance percentage (as determined under section
23 1905(b) without regard to clause (4) of such
24 section) shall be substituted for the enhanced

1 FMAP under subsection (a)(1) with respect to
2 such assistance.

3 “(B) FMAP APPLIED TO PAYMENTS ONLY
4 FOR NONPREGNANT CHILDLESS ADULTS AND
5 PARENTS AND CARETAKER RELATIVES EN-
6 ROLLED UNDER A SECTION 1115 WAIVER ON
7 THE DATE OF ENACTMENT OF THE KIDS FIRST
8 ACT.—The Federal medical assistance percent-
9 age (as determined under section 1905(b) with-
10 out regard to clause (4) of such section) shall
11 be substituted for the enhanced FMAP under
12 subsection (a)(1) with respect to payments for
13 child health assistance or health benefits cov-
14 erage provided under the State child health
15 plan for any of the following:

16 “(i) PARENTS OR CARETAKER REL-
17 ATIVES ENROLLED UNDER A WAIVER ON
18 THE DATE OF ENACTMENT OF THE KIDS
19 FIRST ACT.—A nonpregnant parent or a
20 nonpregnant caretaker relative of a tar-
21 geted low-income child who is enrolled in
22 the State child health plan under a waiver,
23 experimental, pilot, or demonstration
24 project on the date of enactment of the
25 Kids First Act and whose family income

1 does not exceed the income eligibility ap-
2 plied under such waiver with respect to
3 that population on such date.

4 “(ii) NONPREGNANT CHILDLESS
5 ADULTS ENROLLED UNDER A WAIVER ON
6 SUCH DATE.—A nonpregnant childless
7 adult enrolled in the State child health
8 plan under a waiver, experimental, pilot, or
9 demonstration project described in section
10 6102(c)(3) of the Deficit Reduction Act of
11 2005 (42 U.S.C. 1397gg note) on the date
12 of enactment of the Kids First Act and
13 whose family income does not exceed the
14 income eligibility applied under such waiv-
15 er with respect to that population on such
16 date.

17 “(iii) NO REPLACEMENT ENROLL-
18 EES.—Nothing in clauses (i) or (ii) shall
19 be construed as authorizing a State to pro-
20 vide child health assistance or health bene-
21 fits coverage under a waiver described in
22 either such clause to a nonpregnant parent
23 or a nonpregnant caretaker relative of a
24 targeted low-income child, or a nonpreg-
25 nant childless adult, who is not enrolled

1 under the waiver on the date of enactment
2 of the Kids First Act.

3 “(C) NO FEDERAL PAYMENT FOR ANY
4 NEW NONPREGNANT ADULT ENROLLEES OR
5 FOR SUCH ENROLLEES WHO NO LONGER SAT-
6 ISFY INCOME ELIGIBILITY REQUIREMENTS.—
7 Payment shall not be made under this section
8 for child health assistance or other health bene-
9 fits coverage provided under the State child
10 health plan or under a waiver under section
11 1115 for any of the following:

12 “(i) PARENTS OR CARETAKER REL-
13 ATIVES UNDER A SECTION 1115 WAIVER
14 APPROVED AFTER THE DATE OF ENACT-
15 MENT OF THE KIDS FIRST ACT.—A non-
16 pregnant parent or a nonpregnant care-
17 taker relative of a targeted low-income
18 child under a waiver, experimental, pilot,
19 or demonstration project that is approved
20 on or after the date of enactment of the
21 Kids First Act.

22 “(ii) PARENTS, CARETAKER REL-
23 ATIVES, AND NONPREGNANT CHILDLESS
24 ADULTS WHOSE FAMILY INCOME EXCEEDS
25 THE INCOME ELIGIBILITY LEVEL SPECI-

1 FIED UNDER A SECTION 1115 WAIVER AP-
2 PROVED PRIOR TO THE KIDS FIRST ACT.—
3 Any nonpregnant parent or a nonpregnant
4 caretaker relative of a targeted low-income
5 child whose family income exceeds the in-
6 come eligibility level referred to in subpara-
7 graph (B)(i), and any nonpregnant child-
8 less adult whose family income exceeds the
9 income eligibility level referred to in sub-
10 paragraph (B)(ii).

11 “(iii) NONPREGNANT CHILDLESS
12 ADULTS, PARENTS, OR CARETAKER REL-
13 ATIVES NOT ENROLLED UNDER A SECTION
14 1115 WAIVER ON THE DATE OF ENACT-
15 MENT OF THE KIDS FIRST ACT.—Any non-
16 pregnant parent or a nonpregnant care-
17 taker relative of a targeted low-income
18 child who is not enrolled in the State child
19 health plan under a section 1115 waiver,
20 experimental, pilot, or demonstration
21 project referred to in subparagraph (B)(i)
22 on the date of enactment of the Kids First
23 Act, and any nonpregnant childless adult
24 who is not enrolled in the State child
25 health plan under a section 1115 waiver,

1 experimental, pilot, or demonstration
2 project referred to in subparagraph
3 (B)(ii)(I) on such date.

4 “(D) DEFINITION OF CARETAKER REL-
5 ATIVE.—In this subparagraph, the term ‘care-
6 taker relative’ has the meaning given that term
7 for purposes of carrying out section 1931.

8 “(E) RULE OF CONSTRUCTION.—Nothing
9 in this paragraph shall be construed as imply-
10 ing that payments for coverage of populations
11 for which the Federal medical assistance per-
12 centage (as so determined) is to be substituted
13 for the enhanced FMAP under subsection
14 (a)(1) in accordance with this paragraph are to
15 be made from funds other than the allotments
16 determined for a State under section 2104.”.

17 (b) CONFORMING AMENDMENT.—Section 2105(a)(1)
18 of the Social Security Act (42 U.S.C. 1397dd(a)(1)) is
19 amended, in the matter preceding subparagraph (A), by
20 inserting “or subsection (c)(8)” after “subparagraph
21 (B)”.

1 **SEC. 5. PROHIBITION ON NEW SECTION 1115 WAIVERS FOR**
2 **COVERAGE OF ADULTS OTHER THAN PREG-**
3 **NANT WOMEN.**

4 (a) IN GENERAL.—Section 2107(f) of the Social Se-
5 curity Act (42 U.S.C. 1397gg(f)) is amended—

6 (1) by striking “, the Secretary” and inserting
7 “;

8 “(1) The Secretary”; and

9 (2) by adding at the end the following new
10 paragraphs:

11 “(2) The Secretary may not approve, extend,
12 renew, or amend a waiver, experimental, pilot, or
13 demonstration project with respect to a State after
14 the date of enactment of the Kids First Act that
15 would allow funds made available under this title to
16 be used to provide child health assistance or other
17 health benefits coverage for any other adult other
18 than a pregnant woman whose family income does
19 not exceed the income eligibility level specified for a
20 targeted low-income child in that State under a
21 waiver or project approved as of such date.

22 “(3) The Secretary may not approve, extend,
23 renew, or amend a waiver, experimental, pilot, or
24 demonstration project with respect to a State after
25 the date of enactment of the Kids First Act that

1 would waive or modify the requirements of section
2 2105(c)(8).”.

3 (b) CLARIFICATION OF AUTHORITY FOR COVERAGE
4 OF PREGNANT WOMEN.—Section 2106 of the Social Secu-
5 rity Act (42 U.S.C. 1397ff) is amended by adding at the
6 end the following new subsection:

7 “(f) NO AUTHORITY TO COVER PREGNANT WOMEN
8 THROUGH STATE PLAN.—For purposes of this title, a
9 State may provide assistance to a pregnant woman under
10 the State child health plan only—

11 “(1) by virtue of a waiver under section 1115;
12 or

13 “(2) through the application of sections 457.10,
14 457.350(b)(2), 457.622(c)(5), and 457.626(a)(3) of
15 title 42, Code of Federal Regulations (as in effect on
16 the date of enactment of the Kids First Act).”.

17 (c) ASSURANCE OF NOTICE TO AFFECTED ENROLL-
18 EES.—The Secretary of Health and Human Services shall
19 establish procedures to ensure that States provide ade-
20 quate public notice for parents, caretaker relatives, and
21 nonpregnant childless adults whose eligibility for child
22 health assistance or health benefits coverage under a waiv-
23 er under section 1115 of the Social Security Act will be
24 terminated as a result of the amendments made by sub-
25 section (a), and that States otherwise adhere to regula-

1 tions of the Secretary relating to procedures for termi-
 2 nating waivers under section 1115 of the Social Security
 3 Act.

4 **SEC. 6. STANDARDIZATION OF DETERMINATION OF FAMILY**
 5 **INCOME FOR TARGETED LOW-INCOME CHIL-**
 6 **DREN UNDER TITLE XXI AND OPTIONAL TAR-**
 7 **GETED LOW-INCOME CHILDREN UNDER**
 8 **TITLE XIX.**

9 (a) ELIGIBILITY BASED ON GROSS INCOME.—

10 (1) IN GENERAL.—Section 2110 of the Social
 11 Security Act (42 U.S.C. 1397jj) is amended—

12 (A) in subsection (b)(1)(A), by inserting
 13 “in accordance with subsection (d)” after
 14 “State plan”; and

15 (B) by adding at the end the following new
 16 subsection:

17 “(d) STANDARDIZATION OF DETERMINATION OF
 18 FAMILY INCOME.—A State shall determine family income
 19 for purposes of determining income eligibility for child
 20 health assistance or other health benefits coverage under
 21 the State child health plan (or under a waiver of such plan
 22 under section 1115) solely on the basis of the gross income
 23 (as defined by the Secretary) of the family.”.

24 (2) PROHIBITION ON WAIVER OF REQUIRE-
 25 MENTS.—Section 2107(f) (42 U.S.C. 1397gg(f)), as

1 amended by section 5(a), is amended by adding at
2 the end the following new paragraph:

3 “(4) The Secretary may not approve a waiver,
4 experimental, pilot, or demonstration project with re-
5 spect to a State after the date of enactment of the
6 Kids First Act that would waive or modify the re-
7 quirements of section 2110(d) (relating to deter-
8 mining income eligibility on the basis of gross in-
9 come) and regulations promulgated to carry out
10 such requirements.”.

11 (b) REGULATIONS.—Not later than 90 days after the
12 date of enactment of this Act, the Secretary of Health and
13 Human Services shall promulgate interim final regulations
14 defining gross income for purposes of section 2110(d) of
15 the Social Security Act, as added by subsection (a).

16 (c) APPLICATION TO CURRENT ENROLLEES.—The
17 interim final regulations promulgated under subsection (b)
18 shall not be used to determine the income eligibility of any
19 individual enrolled in a State child health plan under title
20 XXI of the Social Security Act on the date of enactment
21 of this Act before the date on which such eligibility of the
22 individual is required to be redetermined under the plan
23 as in effect on such date. In the case of any individual
24 enrolled in such plan on such date who, solely as a result
25 of the application of subsection (d) of section 2110 of the

1 Social Security Act (as added by subsection (a)) and the
 2 regulations promulgated under subsection (b), is deter-
 3 mined to be ineligible for child health assistance under the
 4 State child health plan, a State may elect, subject to sub-
 5 stitution of the Federal medical assistance percentage for
 6 the enhanced FMAP under section 2105(c)(8)(A) of the
 7 Social Security Act (as added by section 4(a)), to continue
 8 to provide the individual with such assistance for so long
 9 as the individual otherwise would be eligible for such as-
 10 sistance and the individual's family income, if determined
 11 under the income and resource standards and methodolo-
 12 gies applicable under the State child health plan on Sep-
 13 tember 30, 2008, would not exceed the income eligibility
 14 level applicable to the individual under the State child
 15 health plan.

16 **SEC. 7. GRANTS FOR OUTREACH AND ENROLLMENT.**

17 (a) GRANTS.—Title XXI of the Social Security Act
 18 (42 U.S.C. 1397aa et seq.) is amended by adding at the
 19 end the following:

20 **“SEC. 2111. GRANTS TO IMPROVE OUTREACH AND ENROLL-**
 21 **MENT.**

22 “(a) OUTREACH AND ENROLLMENT GRANTS; NA-
 23 TIONAL CAMPAIGN.—

24 “(1) IN GENERAL.—From the amounts appro-
 25 priated for a fiscal year under subsection (f), subject

1 to paragraph (2), the Secretary shall award grants
2 to eligible entities to conduct outreach and enroll-
3 ment efforts that are designed to increase the enroll-
4 ment and participation of eligible children under this
5 title and title XIX.

6 “(2) 10 PERCENT SET ASIDE FOR NATIONAL
7 ENROLLMENT CAMPAIGN.—An amount equal to 10
8 percent of such amounts for the fiscal year shall be
9 used by the Secretary for expenditures during the
10 fiscal year to carry out a national enrollment cam-
11 paign in accordance with subsection (g).

12 “(b) AWARD OF GRANTS.—

13 “(1) PRIORITY FOR AWARDING.—

14 “(A) IN GENERAL.—In awarding grants
15 under subsection (a), the Secretary shall give
16 priority to eligible entities that—

17 “(i) propose to target geographic
18 areas with high rates of—

19 “(I) eligible but unenrolled chil-
20 dren, including such children who re-
21 side in rural areas; or

22 “(II) racial and ethnic minorities
23 and health disparity populations, in-
24 cluding those proposals that address

1 cultural and linguistic barriers to en-
2 rollment; and

3 “(ii) submit the most demonstrable
4 evidence required under paragraphs (1)
5 and (2) of subsection (c).

6 “(B) 10 PERCENT SET ASIDE FOR OUT-
7 REACH TO INDIAN CHILDREN.—An amount
8 equal to 10 percent of the funds appropriated
9 under subsection (f) for a fiscal year shall be
10 used by the Secretary to award grants to In-
11 dian Health Service providers and urban Indian
12 organizations receiving funds under title V of
13 the Indian Health Care Improvement Act (25
14 U.S.C. 1651 et seq.) for outreach to, and en-
15 rollment of, children who are Indians.

16 “(2) 2-YEAR AVAILABILITY.—A grant awarded
17 under this section for a fiscal year shall remain
18 available for expenditure through the end of the suc-
19 ceeding fiscal year.

20 “(c) APPLICATION.—An eligible entity that desires to
21 receive a grant under subsection (a) shall submit an appli-
22 cation to the Secretary in such form and manner, and con-
23 taining such information, as the Secretary may decide.
24 Such application shall include—

1 “(1) evidence demonstrating that the entity in-
2 cludes members who have access to, and credibility
3 with, ethnic or low-income populations in the com-
4 munities in which activities funded under the grant
5 are to be conducted;

6 “(2) evidence demonstrating that the entity has
7 the ability to address barriers to enrollment, such as
8 lack of awareness of eligibility, stigma concerns and
9 punitive fears associated with receipt of benefits,
10 and other cultural barriers to applying for and re-
11 ceiving child health assistance or medical assistance;

12 “(3) specific quality or outcomes performance
13 measures to evaluate the effectiveness of activities
14 funded by a grant awarded under this section; and

15 “(4) an assurance that the eligible entity
16 shall—

17 “(A) conduct an assessment of the effec-
18 tiveness of such activities against the perform-
19 ance measures;

20 “(B) cooperate with the collection and re-
21 porting of enrollment data and other informa-
22 tion in order for the Secretary to conduct such
23 assessments; and

24 “(C) in the case of an eligible entity that
25 is not the State, provide the State with enroll-

1 ment data and other information as necessary
2 for the State to make necessary projections of
3 eligible children and pregnant women.

4 “(d) SUPPLEMENT, NOT SUPPLANT.—Federal funds
5 awarded under this section shall be used to supplement,
6 not supplant, non-Federal funds that are otherwise avail-
7 able for activities funded under this section.

8 “(e) DEFINITIONS.—In this section:

9 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
10 tity’ means any of the following:

11 “(A) A State with an approved child health
12 plan under this title.

13 “(B) A local government.

14 “(C) An Indian tribe or tribal consortium,
15 a tribal organization, an urban Indian organiza-
16 tion receiving funds under title V of the Indian
17 Health Care Improvement Act (25 U.S.C. 1651
18 et seq.), or an Indian Health Service provider.

19 “(D) A Federal health safety net organiza-
20 tion.

21 “(E) A State, national, local, or commu-
22 nity-based public or nonprofit private organiza-
23 tion.

24 “(F) A faith-based organization or con-
25 sortia, to the extent that a grant awarded to

1 such an entity is consistent with the require-
2 ments of section 1955 of the Public Health
3 Service Act (42 U.S.C. 300x–65) relating to a
4 grant award to non-governmental entities.

5 “(G) An elementary or secondary school.

6 “(H) A national, local, or community-based
7 public or nonprofit private organization, includ-
8 ing organizations that use community health
9 workers or community-based doula programs.

10 “(2) FEDERAL HEALTH SAFETY NET ORGANI-
11 ZATION.—The term ‘Federal health safety net orga-
12 nization’ means—

13 “(A) a federally-qualified health center (as
14 defined in section 1905(l)(2)(B));

15 “(B) a hospital defined as a dispropor-
16 tionate share hospital for purposes of section
17 1923;

18 “(C) a covered entity described in section
19 340B(a)(4) of the Public Health Service Act
20 (42 U.S.C. 256b(a)(4)); and

21 “(D) any other entity or consortium that
22 serves children under a federally-funded pro-
23 gram, including the special supplemental nutri-
24 tion program for women, infants, and children
25 (WIC) established under section 17 of the Child

1 Nutrition Act of 1966 (42 U.S.C. 1786), the
2 head start and early head start programs under
3 the Head Start Act (42 U.S.C. 9801 et seq.),
4 the school lunch program established under the
5 Richard B. Russell National School Lunch Act,
6 and an elementary or secondary school.

7 “(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANI-
8 ZATION; URBAN INDIAN ORGANIZATION.—The terms
9 ‘Indian’, ‘Indian tribe’, ‘tribal organization’, and
10 ‘urban Indian organization’ have the meanings given
11 such terms in section 4 of the Indian Health Care
12 Improvement Act (25 U.S.C. 1603).

13 “(4) COMMUNITY HEALTH WORKER.—The term
14 ‘community health worker’ means an individual who
15 promotes health or nutrition within the community
16 in which the individual resides—

17 “(A) by serving as a liaison between com-
18 munities and health care agencies;

19 “(B) by providing guidance and social as-
20 sistance to community residents;

21 “(C) by enhancing community residents’
22 ability to effectively communicate with health
23 care providers;

1 “(D) by providing culturally and linguis-
2 tically appropriate health or nutrition edu-
3 cation;

4 “(E) by advocating for individual and com-
5 munity health or nutrition needs; and

6 “(F) by providing referral and followup
7 services.

8 “(f) APPROPRIATION.—

9 “(1) IN GENERAL.—There is appropriated, out
10 of any money in the Treasury not otherwise appro-
11 priated, for the purpose of awarding grants under
12 this section—

13 “(A) \$100,000,000 for each of fiscal years
14 2009 and 2010;

15 “(B) \$75,000,000 for each of fiscal years
16 2011 and 2012; and

17 “(C) \$50,000,000 for fiscal year 2013.

18 “(2) GRANTS IN ADDITION TO OTHER AMOUNTS
19 PAID.—Amounts appropriated and paid under the
20 authority of this section shall be in addition to
21 amounts appropriated under section 2104 and paid
22 to States in accordance with section 2105, including
23 with respect to expenditures for outreach activities
24 in accordance with subsections (a)(1)(D)(iii) and
25 (c)(2)(C) of that section.

1 “(g) NATIONAL ENROLLMENT CAMPAIGN.—From
2 the amounts made available under subsection (a)(2) for
3 a fiscal year, the Secretary shall develop and implement
4 a national enrollment campaign to improve the enrollment
5 of underserved child populations in the programs estab-
6 lished under this title and title XIX. Such campaign may
7 include—

8 “(1) the establishment of partnerships with the
9 Secretary of Education and the Secretary of Agri-
10 culture to develop national campaigns to link the eli-
11 gibility and enrollment systems for the assistance
12 programs each Secretary administers that often
13 serve the same children;

14 “(2) the integration of information about the
15 programs established under this title and title XIX
16 in public health awareness campaigns administered
17 by the Secretary;

18 “(3) increased financial and technical support
19 for enrollment hotlines maintained by the Secretary
20 to ensure that all States participate in such hotlines;

21 “(4) the establishment of joint public awareness
22 outreach initiatives with the Secretary of Education
23 and the Secretary of Labor regarding the impor-
24 tance of health insurance to building strong commu-
25 nities and the economy;

1 “(5) the development of special outreach mate-
2 rials for Native Americans or for individuals with
3 limited English proficiency; and

4 “(6) such other outreach initiatives as the Sec-
5 retary determines would increase public awareness of
6 the programs under this title and title XIX.”.

7 (b) NONAPPLICATION OF ADMINISTRATIVE EXPENDI-
8 TURES CAP.—Section 2105(c)(2) of the Social Security
9 Act (42 U.S.C. 1397ee(c)(2)) is amended by adding at the
10 end the following:

11 “(C) NONAPPLICATION TO EXPENDITURES
12 FOR OUTREACH AND ENROLLMENT.—The limi-
13 tation under subparagraph (A) shall not apply
14 with respect to expenditures for outreach activi-
15 ties under section 2102(c)(1), or for enrollment
16 activities, for children eligible for child health
17 assistance under the State child health plan or
18 medical assistance under the State plan under
19 title XIX.”.

1 **SEC. 8. IMPROVED STATE OPTION FOR OFFERING PRE-**
 2 **MIUM ASSISTANCE FOR COVERAGE OF CHIL-**
 3 **DREN THROUGH PRIVATE PLANS UNDER**
 4 **SCHIP AND MEDICAID.**

5 (a) IN GENERAL.—Section 2105(c) of the Social Se-
 6 curity Act (42 U.S.C. 1397ee(c)), as amended by section
 7 4(a) is amended by adding at the end the following:

8 “(9) ADDITIONAL STATE OPTION FOR OFFER-
 9 ING PREMIUM ASSISTANCE.—

10 “(A) IN GENERAL.—Subject to the suc-
 11 ceeding provisions of this paragraph, a State
 12 may elect to offer a premium assistance subsidy
 13 (as defined in subparagraph (C)) for qualified
 14 coverage (as defined in subparagraph (B)) to
 15 all targeted low-income children who are eligible
 16 for child health assistance under the plan and
 17 have access to such coverage in accordance with
 18 the requirements of this paragraph.

19 “(B) QUALIFIED COVERAGE.—In this
 20 paragraph, the term ‘qualified coverage’ means
 21 the following:

22 “(i) QUALIFIED EMPLOYER SPON-
 23 SORED COVERAGE.—

24 “(I) IN GENERAL.—A group
 25 health plan or health insurance cov-

1 erage offered through an employer
2 that is—

3 “(aa) substantially equiva-
4 lent to the benefits coverage in a
5 benchmark benefit package de-
6 scribed in section 2103(b) or
7 benchmark-equivalent coverage
8 that meets the requirements of
9 section 2103(a)(2);

10 “(bb) made similarly avail-
11 able to all of the employer’s em-
12 ployees and for which the em-
13 ployer makes a contribution to
14 the premium that is not less for
15 employees receiving a premium
16 assistance subsidy under any op-
17 tion available under the State
18 child health plan under this title
19 or the State plan under title XIX
20 to provide such assistance than
21 the employer contribution pro-
22 vided for all other employees; and
23 “(cc) cost-effective, as deter-
24 mined under subclause (II).

1 “(II) COST-EFFECTIVENESS.—A
2 group health plan or health insurance
3 coverage offered through an employer
4 shall be considered to be cost-effective
5 if—

6 “(aa) the marginal premium
7 cost to purchase family coverage
8 through the employer is less than
9 the State cost of providing child
10 health assistance through the
11 State child health plan for all the
12 children in the family who are
13 targeted low-income children; or

14 “(bb) the marginal premium
15 cost between individual coverage
16 and purchasing family coverage
17 through the employer is not
18 greater than 175 percent of the
19 cost to the State to provide child
20 health assistance through the
21 State child health plan for a tar-
22 geted low-income child.

23 “(ii) QUALIFIED NON-GROUP COV-
24 ERAGE.—Health insurance coverage of-
25 fered to individuals in the non-group

1 health insurance market that is substan-
2 tially equivalent to the benefits coverage in
3 a benchmark benefit package described in
4 section 2103(b) or benchmark-equivalent
5 coverage that meets the requirements of
6 section 2103(a)(2).

7 “(iii) HIGH DEDUCTIBLE HEALTH
8 PLAN.—A high deductible health plan (as
9 defined in section 223(c)(2) of the Internal
10 Revenue Code of 1986) purchased through
11 a health savings account (as defined under
12 section 223(d) of such Code).

13 “(C) PREMIUM ASSISTANCE SUBSIDY.—

14 “(i) IN GENERAL.—In this paragraph,
15 the term ‘premium assistance subsidy’
16 means, with respect to a targeted low-in-
17 come child, the amount equal to the dif-
18 ference between the employee contribution
19 required for enrollment only of the em-
20 ployee under qualified employer sponsored
21 coverage and the employee contribution re-
22 quired for enrollment of the employee and
23 the child in such coverage, less any appli-
24 cable premium cost-sharing applied under
25 the State child health plan, subject to the

1 annual aggregate cost-sharing limit applied
2 under section 2103(e)(3)(B).

3 “(ii) STATE PAYMENT OPTION.—Sub-
4 ject to clause (iii), a State may provide a
5 premium assistance subsidy directly to an
6 employer or as reimbursement to an em-
7 ployee for out-of-pocket expenditures.

8 “(iii) REQUIREMENT FOR DIRECT
9 PAYMENT TO EMPLOYEE.—A State shall
10 not pay a premium assistance subsidy di-
11 rectly to the employee, unless the State has
12 established procedures to ensure that the
13 targeted low-income child on whose behalf
14 such payments are made are actually en-
15 rolled in the qualified employer sponsored
16 coverage.

17 “(iv) TREATMENT AS CHILD HEALTH
18 ASSISTANCE.—Expenditures for the provi-
19 sion of premium assistance subsidies shall
20 be considered child health assistance de-
21 scribed in paragraph (1)(C) of subsection
22 (a) for purposes of making payments
23 under that subsection.

24 “(v) STATE OPTION TO REQUIRE AC-
25 CEPTANCE OF SUBSIDY.—A State may

1 condition the provision of child health as-
2 sistance under the State child health plan
3 for a targeted low-income child on the re-
4 ceipt of a premium assistance subsidy for
5 enrollment in qualified employer sponsored
6 coverage if the State determines the provi-
7 sion of such a subsidy to be more cost-ef-
8 fective in accordance with subparagraph
9 (B)(ii).

10 “(vi) NOT TREATED AS INCOME.—
11 Notwithstanding any other provision of
12 law, a premium assistance subsidy pro-
13 vided in accordance with this paragraph
14 shall not be treated as income to the child
15 or the parent of the child for whom such
16 subsidy is provided.

17 “(D) NO REQUIREMENT TO PROVIDE SUP-
18 PLEMENTAL COVERAGE FOR BENEFITS AND AD-
19 DITIONAL COST-SHARING PROTECTION PRO-
20 VIDED UNDER THE STATE CHILD HEALTH
21 PLAN.—

22 “(i) IN GENERAL.—A State that
23 elects the option to provide a premium as-
24 sistance subsidy under this paragraph shall
25 not be required to provide a targeted low-

1 income child enrolled in qualified employer
2 sponsored coverage with supplemental cov-
3 erage for items or services that are not
4 covered, or are only partially covered,
5 under the qualified employer sponsored
6 coverage or cost-sharing protection other
7 than the protection required under section
8 2103(e)(3)(B).

9 “(ii) NOTICE OF COST-SHARING RE-
10 QUIREMENTS.—A State shall provide a tar-
11 geted low-income child or the parent of
12 such a child (as appropriate) who is pro-
13 vided with a premium assistance subsidy in
14 accordance with this paragraph with notice
15 of the cost-sharing requirements and limi-
16 tations imposed under the qualified em-
17 ployer sponsored coverage in which the
18 child is enrolled upon the enrollment of the
19 child in such coverage and annually there-
20 after.

21 “(iii) RECORD KEEPING REQUIRE-
22 MENTS.—A State may require a parent of
23 a targeted low-income child that is enrolled
24 in qualified employer-sponsored coverage to
25 bear the responsibility for keeping track of

1 out-of-pocket expenditures incurred for
2 cost-sharing imposed under such coverage
3 and to notify the State when the limit on
4 such expenditures imposed under section
5 2103(e)(3)(B) has been reached for a year
6 from the effective date of enrollment for
7 such year.

8 “(iv) STATE OPTION FOR REIMBURSE-
9 MENT.—A State may retroactively reim-
10 burse a parent of a targeted low-income
11 child for out-of-pocket expenditures in-
12 curred after reaching the 5 percent cost-
13 sharing limitation imposed under section
14 2103(e)(3)(B) for a year.

15 “(E) 6-MONTH WAITING PERIOD RE-
16 QUIRED.—A State shall impose at least a 6-
17 month waiting period from the time an indi-
18 vidual is enrolled in private health insurance
19 prior to the provision of a premium assistance
20 subsidy for a targeted low-income child in ac-
21 cordance with this paragraph.

22 “(F) NON APPLICATION OF WAITING PE-
23 RIOD FOR ENROLLMENT IN THE STATE MED-
24 ICAID PLAN OR THE STATE CHILD HEALTH
25 PLAN.—A targeted low-income child provided a

1 premium assistance subsidy in accordance with
2 this paragraph who loses eligibility for such
3 subsidy shall not be treated as having been en-
4 rolled in private health insurance coverage for
5 purposes of applying any waiting period im-
6 posed under the State child health plan or the
7 State plan under title XIX for the enrollment of
8 the child under such plan.

9 “(G) ASSURANCE OF SPECIAL ENROLL-
10 MENT PERIOD UNDER GROUP HEALTH PLANS
11 IN CASE OF ELIGIBILITY FOR PREMIUM SUB-
12 SIDY ASSISTANCE.—No payment shall be made
13 under subsection (a) for amounts expended for
14 the provision of premium assistance subsidies
15 under this paragraph unless a State provides
16 assurances to the Secretary that the State has
17 in effect laws requiring a group health plan, a
18 health insurance issuer offering group health
19 insurance coverage in connection with a group
20 health plan, and a self-funded health plan, to
21 permit an employee who is eligible, but not en-
22 rolled, for coverage under the terms of the plan
23 (or a child of such an employee if the child is
24 eligible, but not enrolled, for coverage under
25 such terms) to enroll for coverage under the

1 terms of the plan if the employee’s child be-
2 comes eligible for a premium assistance subsidy
3 under this paragraph.

4 “(H) NO EFFECT ON PREVIOUSLY AP-
5 PROVED PREMIUM ASSISTANCE PROGRAMS.—
6 Nothing in this paragraph shall be construed as
7 limiting the authority of a State to offer pre-
8 mium assistance under section 1906, a waiver
9 described in paragraph (2)(B) or (3), a waiver
10 approved under section 1115, or other authority
11 in effect on February 1, 2009.

12 “(I) NOTICE OF AVAILABILITY.—A State
13 shall—

14 “(i) include on any application or en-
15 rollment form for child health assistance a
16 notice of the availability of premium assist-
17 ance subsidies for the enrollment of tar-
18 geted low-income children in qualified em-
19 ployer sponsored coverage;

20 “(ii) provide, as part of the applica-
21 tion and enrollment process under the
22 State child health plan, information de-
23 scribing the availability of such subsidies
24 and how to elect to obtain such a subsidy;
25 and

1 “(iii) establish such other procedures
2 as the State determines necessary to en-
3 sure that parents are informed of the
4 availability of such subsidies under the
5 State child health plan.”.

6 (b) APPLICATION TO MEDICAID.—Section 1906 of
7 the Social Security Act (42 U.S.C. 1396e) is amended by
8 inserting after subsection (c) the following:

9 “(d) The provisions of section 2105(c)(9) shall apply
10 to a child who is eligible for medical assistance under the
11 State plan in the same manner as such provisions apply
12 to a targeted low-income child under a State child health
13 plan under title XXI. Section 1902(a)(34) shall not apply
14 to a child who is provided a premium assistance subsidy
15 under the State plan in accordance with the preceding sen-
16 tence.”.

17 **SEC. 9. TREATMENT OF UNBORN CHILDREN.**

18 (a) CODIFICATION OF CURRENT REGULATIONS.—
19 Section 2110(c)(1) of the Social Security Act (42 U.S.C.
20 1397jj(c)(1)) is amended by striking the period at the end
21 and inserting the following: “, and includes, at the option
22 of a State, an unborn child. For purposes of the previous
23 sentence, the term ‘unborn child’ means a member of the
24 species *Homo sapiens*, at any stage of development, who
25 is carried in the womb.”.

1 (b) CLARIFICATIONS REGARDING COVERAGE OF
 2 MOTHERS.—Section 2103 (42 U.S.C. 1397cc) is amended
 3 by adding at the end the following new subsection:

4 “(g) CLARIFICATIONS REGARDING AUTHORITY TO
 5 PROVIDE POSTPARTUM SERVICES AND MATERNAL
 6 HEALTH CARE.—Any State that provides child health as-
 7 sistance to an unborn child under the option described in
 8 section 2110(c)(1) may—

9 “(1) continue to provide such assistance to the
 10 mother, as well as postpartum services, through the
 11 end of the month in which the 60-day period (begin-
 12 ning on the last day of pregnancy) ends; and

13 “(2) in the interest of the child to be born, have
 14 flexibility in defining and providing services to ben-
 15 efit either the mother or unborn child consistent
 16 with the health of both.”.

17 **SEC. 10. 50 PERCENT MATCHING RATE FOR ALL MEDICAID**
 18 **ADMINISTRATIVE COSTS.**

19 Section 1903(a) of the Social Security Act (42 U.S.C.
 20 1396b(a)) is amended—

21 (1) by striking paragraph (2);

22 (2) by redesignating paragraph (3)(E) as para-
 23 graph (2) and re-locating and indenting it appro-
 24 priately;

1 (3) in paragraph (2), as so redesignated, by re-
 2 designating clauses (i) and (ii) as subparagraphs (A)
 3 and (B), and indenting them appropriately;

4 (4) by striking paragraphs (3) and (4);

5 (5) in paragraph (5), by striking “which are at-
 6 tributable to the offering, arranging, and fur-
 7 nishing” and inserting “which are for the medical
 8 assistance costs of furnishing”;

9 (6) by striking paragraph (6);

10 (7) in paragraph (7), by striking “subject to
 11 section 1919(g)(3)(B),”; and

12 (8) by redesignating paragraphs (5) and (7) as
 13 paragraphs (3) and (4), respectively.

14 **SEC. 11. REDUCTION IN PAYMENTS FOR MEDICAID ADMIN-**
 15 **ISTRATIVE COSTS TO PREVENT DUPLICATION**
 16 **OF SUCH PAYMENTS UNDER TANF.**

17 Section 1903 of the Social Security Act (42 U.S.C.
 18 1396b) is amended—

19 (1) in subsection (a)(7), by striking “section
 20 1919(g)(3)(B)” and inserting “subsection (h)”;

21 (2) in subsection (a)(2)(D) by inserting “, sub-
 22 ject to subsection (g)(3)(C) of such section” after
 23 “as are attributable to State activities under section
 24 1919(g)”;

1 (3) by adding after subsection (g) the following
 2 new subsection:

3 “(h) REDUCTION IN PAYMENTS FOR ADMINISTRA-
 4 TIVE COSTS TO PREVENT DUPLICATION OF PAYMENTS
 5 UNDER TITLE IV.—Beginning with the calendar quarter
 6 commencing April 1, 2009, the Secretary shall reduce the
 7 amount paid to each State under subsection (a)(7) for
 8 each quarter by an amount equal to $\frac{1}{4}$ of the annualized
 9 amount determined for the Medicaid program under sec-
 10 tion 16(k)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C.
 11 2025(k)(2)(B)).”.

12 **SEC. 12. ELIMINATION OF WAIVER OF CERTAIN MEDICAID**
 13 **PROVIDER TAX PROVISIONS.**

14 Effective October 1, 2009, subsection (c) of section
 15 4722 of the Balanced Budget Act of 1997 (Public Law
 16 105–33; 111 Stat. 515) is repealed.

17 **SEC. 13. ELIMINATION OF SPECIAL PAYMENTS FOR CER-**
 18 **TAIN PUBLIC HOSPITALS.**

19 Effective October 1, 2009, subsection (d) of section
 20 701 of the Medicare, Medicaid, and SCHIP Benefits Im-
 21 provement and Protection Act of 2000, as enacted into
 22 law by section 1(a)(6) of Public Law 106–554 (42 U.S.C.
 23 1396r–4 note), is repealed.

1 **SEC. 14. EFFECTIVE DATE; COORDINATION OF FUNDING**
2 **FOR FISCAL YEAR 2009.**

3 (a) IN GENERAL.—Unless otherwise specified, sub-
4 ject to subsection (b), the amendments made by this Act
5 shall take effect on the date of enactment of this Act.

6 (b) DELAY IF STATE LEGISLATION REQUIRED.—In
7 the case of a State child health plan under title XXI of
8 the Social Security Act or a waiver of such plan under
9 section 1115 of such Act which the Secretary of Health
10 and Human Services determines requires State legislation
11 (other than legislation appropriating funds) in order for
12 the plan or waiver to meet the additional requirements im-
13 posed by the amendments made by this Act, the State
14 child health plan or waiver shall not be regarded as failing
15 to comply with the requirements of such title XXI solely
16 on the basis of its failure to meet such additional require-
17 ments before the first day of the first calendar quarter
18 beginning after the close of the first regular session of the
19 State legislature that begins after the date of the enact-
20 ment of this Act. For purposes of the previous sentence,
21 in the case of a State that has a 2-year legislative session,
22 each year of such session shall be deemed to be a separate
23 regular session of the State legislature.

24 (c) COORDINATION OF FUNDING FOR FISCAL YEAR
25 2009.—Notwithstanding any other provision of law, inso-
26 far as funds have been appropriated under section

1 2104(a)(11) of the Social Security Act, as amended by
2 section 201(a) of Public Law 110–173 and in effect on
3 January 1, 2009, to provide allotments to States under
4 title XXI of the Social Security Act for fiscal year 2009—

5 (1) any amounts that are so appropriated that
6 are not so allotted and obligated before the date of
7 the enactment of this Act are rescinded; and

8 (2) any amount provided for allotments under
9 title XXI of such Act to a State under the amend-
10 ments made by this Act for such fiscal year shall be
11 reduced by the amount of such appropriations so al-
12 lotted and obligated before such date.

○